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Attorney's Docket No.: 08575-0103001

REMARKS

SECTION 101 REJECTION
Applicant appreciates the withdrawal of the section 101 rejection of claims 19-24.

SECTION 103 REJECTION OF CLAIM 1
The Office agrees that *Nowitz* fails to teach "analyzing the first set of content files for errors by emulating a first category of wireless devices; and generating a log file including a navigation history and error information, wherein the navigation history includes one or more paths of links traversed during the first web crawling process."

As best understood, the Office regards *Hu*[1] as teaching the foregoing limitations.

In *Hu*, a server serves a community of clients, some of which use mobile devices and some of which use stationary devices. The technical problem addressed by *Hu* is that of "load testing" the server, i.e. assessing the computation burden that these clients are likely to impose on this server.

According to *Hu*, the distinction between mobile devices and conventional computers is an important one. Mobile devices are "thin devices" that impose a different computational load. Specifically, according to *Hu*:

> "With the proliferation of mobile handheld devices, such as personal digital assistants (PDAs) and cellular phones, new applications have been developed to provide mobile computing. Whereas at one time these handheld devices, referred to as "thin devices," offered limited computing support for users, today thin devices allow users to access the Internet to retrieve and send electronic mail, or to browse. Moreover, a user can utilize her thin device to access data stored in a database while she is away from her office."[2]

Hu regards the distinction between mobile and conventional devices as important in load testing a server because:

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[1] *Hu* US2003/0182408
[2] *Hu*, paragraph 2.

"[t]he thin device client may not be able to consume a large trunk of message sent by the server. Accordingly, the server is required to send multiple messages to the client, i.e., one user session usually requires at least one request/response pair. Existing load testing applications are not designed to handle multiple request/response pairs between the client and server during a single user session."[3]

Hu load-tests a server by "emulating hundreds of *clients*, including mobile users."[4] More specifically, *Hu* uses a thread "to emulate a plurality of *user sessions*."[5] Among the "plurality of user sessions" *Hu* emulates are those that occur when the user session originates on a mobile device.

Hu emulates user sessions on these mobile devices by first assuming the user session occurs on a conventional device. *Hu* then sets an input parameter called "think time," which "[c]ontrols the speed at which the virtual user interacts with the server"[6] by causing the testing process to include "pauses for think times during test execution."[7] As a result, the user session behaves as if it were occurring on a mobile device.

It appears that *Hu* is irrelevant to the claimed invention because what it emulates is the user session itself. This is consistent with the purpose of *Hu*, which is to load test a server. In *Hu*, it is irrelevant whether content files may have errors that would cause a mobile device to display web pages correctly. What counts in *Hu* is the computational demand made by a user when interacting with the server.

SECTION 103 REJECTION OF CLAIM 1
Hu fails to teach analyzing content files for errors
The Office Action concedes that *Nowitz* fails to disclose analyzing content files for errors by emulating wireless devices. Nevertheless, the Office Action suggests that *Hu* teaches the foregoing limitation. Specifically, the Office Action suggests that *Hu* teaches analyzing content

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[3] *Hu*, paragraph 5.
[4] *Hu* paragraph 17.
[5] *Hu*, paragraph 18.
[6] *Hu*, paragraph 21.
[7] *Hu*, paragraph 21.

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files for errors in paragraphs 17 and 21. We therefore consider these paragraphs in detail to understand what they teach.

Paragraph 17

Paragraph 17 reads as follows:

> [0017] The method and system in accordance with a preferred embodiment of the present invention tests an entire enterprise infrastructure by emulating hundreds of clients, including mobile users, using real-time performance monitors to identify and isolate problems. It can simulate any synchronization scenario that a real client presents, such as a data store refresh, an upload of new adjustment form data to data sources in the enterprise, and a download of new adjustment form data onto the mobile device. In addition, it can provide emulation of any combination of synchronization scenarios. From the server's perspective, the server cannot differentiate between requests issued by the emulated clients from those issued by actual users.[8]

A careful reading of paragraph 17 confirms the absence of any discussion about errors in content files. In fact, there is no discussion about errors at all. Paragraph 17 simply describes in general terms the properties of a system that emulates client activities for the purpose of analyzing the computation burden placed on a server by various clients. Thus, the purpose set forth in paragraph 17 is that of analyzing computation burden, *not* errors in content files.

Paragraph 17 refers to using "real-time performance monitors" in an effort to "identify and isolate problems." But there are many problems one can identify and isolate. The fact that *Hu*'s system can "identify and isolate problems" certainly does not mean that it is "analyzing...content files for errors" as recited in claim 1.

Paragraph 21

Having established that paragraph 17 fails to teach "analyzing...content files for errors", we now turn to the only remaining paragraph that allegedly teaches this claim limitation, namely paragraph 21:

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[8] *Hu*, paragraph 17.

Think time: Controls the speed at which the virtual user interacts with the server by including pauses for think times during test execution. By varying think times for users, the behavior of different devices, e.g., PDAs and cell phones, can be emulated.

The foregoing paragraph, particularly in the context of the preceding text, merely states that one way to emulate a user-session occurring on a mobile device is to vary a "think time." The foregoing paragraph says nothing about any role played by device emulation in "analyzing...content files for errors."

The Office Action includes the statement that

"*Hu* disclosed on how mobile devices are emulated for testing of data content"[9]

Although the foregoing statement is not altogether clear, it appears to be an assertion that that *Hu* teaches emulating a wireless device for the purpose of testing data content. However, no documentary evidence is presented to support this assertion. Specifically, no further passages besides paragraphs 17 and 21 have been offered to support this assertion. Accordingly, the foregoing statement is a mere conclusory statement that adds nothing of substance.

Hu fails to teach a log file including navigation history and error information

According to the Office Action, the limitation of "generating a log file including a navigation history and error information" is disclosed in *Hu*, paragraphs 32-33:

[0032] Referring again to FIG. 4, after the subthread 112 has extracted the information for the configuration file 220, the subthread 112 analyzes the reply 115 in step 176. In a preferred embodiment, the subthread 112 compares the reply 115 to the expected response built in step 168. Results of the comparison are stored in a log file 230 associated with the virtual user 200. If more requests need to be transmitted, i.e., the user session is not finished (step 178), the subthread 112 repeats steps 170-176 in order to simulate the actual user session.

[0033] As was mentioned above, each subthread 112a-112n (FIG. 2) independently emulates a user session on its associated virtual user 200a-200n, and records testing information, such as response time, and flags problems associated with the user session. When each user session is finished, the associated subthread 112a-112n terminates. Once all user sessions have completed (step 180), the main thread 110

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[9] *Office Action*, page 4, lines 2-3.

collects and analyzes the testing information from each subthread 112a- 112n, and generates a report file 140 in step 182. If the tester desires detailed information pertaining to a user session for a particular virtual user, the tester can examine the log file 230 associated with that virtual user.

Paragraph 32 states that certain log files include results of comparing an expected response with an actual reply 115. This has nothing to do with "navigation history" that includes "one or more paths of links traversed during the first web crawling process" as required by claim 1. Nor does it have anything to do with "error information."

Paragraph 33 merely states that a tester examines the log file. But the fact that a tester examines the log file does not tell us what is in the log file. In particular, the fact that a tester examines a log file does not mean that the log file includes "navigation history" and "error information."

It is apparent therefore that *Hu* fails to teach "generating a log file including a navigation history and error information" as required by claim 1. Accordingly, even if one were to somehow combine the references, the result would still fail to yield the claimed invention.

Claims 2-18 all depend on claim 1 and are patentable for at least the same reasons. Independent claims 18, 25, and 29 all include limitations similar to claim 1 and are patentable for at least the same reasons. Claims 20-24, 26-28, and 30-32 all depend on their respective parent claims and are allowable for at least the same reasons.

Motivation to combine references is flawed

As motivation to combine *Nowitz* and *Hu*, the Office Action states that "one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment."

The Office is required to articulate some line of reasoning that would have led one of ordinary skill in the art to combine the teachings of the references. The fact that two references are "within the same environment" is not a basis for combining the references in a section 103 rejection.

As motivation to combine *Nowitz* and *Hu*, the Office Action further states that one of ordinary skill in the art would have done so "for the purpose of efficient data content management" both "with the aid of log information"[10] and without the aid of log information.[11]

It is unclear how the proposed combination of references would lead to more efficient data content management. *Hu* is a system for load testing a server. It has nothing to do with management of data content.

According to the Supreme Court in *KSR v. Teleflex*, the Office must supply some "articulated reasoning with some rational underpinning to support the legal conclusion of obviousness".[12] A broad generalization that combining teachings would result in "efficient data content management" without even some rudimentary explanation of why this is the case can hardly amount to "articulated reasoning with some rational underpinning."

The Office Action makes no attempt whatsoever to indicate why the *Nowitz* "method and system for generating rules describing a data store having content"[13] would be able to manage that content any more efficiently by being able to emulate wireless devices.

SECTION 103 REJECTION OF CLAIM 2, 4-12

The Office Action summarily rejects a slew of claims because these claims allegedly recite limitations similar to those in one or more of their respective parent claims.

This is not the case. Each of the claims 2 and 4-12 recites additional substantive limitations beyond those recited in their respective parent claims. The Office has failed to identify in the references any teaching or suggestion of these claim limitations. Accordingly, the section 103 rejections of claims 2 and 4-12 is improper.

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[10] *Office Action*, page 5, line 1.
[11] *Office Action*, page 4, 10-11.
[12] *KSR v. Teleflex*, 127 S.Ct. 1727, 1741.
[13] *Nowitz*, col. 2, lines 15-16.

Moreover, the summary section 103 rejection of the foregoing claims is also inconsistent Rule 1.104(c)(2), which requires that "when a reference is complex or shows or describes inventions other than that claimed by the application, the particular part relied on must be designated as nearly as practicable."

Finally, the summary section 103 rejection of the foregoing claims is inconsistent with 35 USC 132, which requires that "[w]henever, on examination, any claim for a patent is rejected...the Director shall notify the applicant thereof, stating the reasons for rejection...together with such information or references as may be useful in judging of the propriety of containing the prosecution."

SECTION 103 REJECTION OF CLAIM 3

The Office states that claim 3's additional limitation of "identifying a first set of language elements that are supported by the first category of wireless devices" is disclosed by the union of *Nowitz*, col. 4, lines 33-40 and paragraphs 17 and 21 of *Hu*.

The passage at *Nowitz* col. 4, lines 33-40 reads as follows:

> Sources of metadata include web page content, uniform resource locators (URIs), media files, and transport streams used to transmit media files. Web page content includes HTML, XML, metatags, and any other text on the web page.[14]

The foregoing passage merely enumerates the various places where one might be able to find metadata. Identifying places from which metadata can be obtained hardly amounts to "identifying a first set of language elements." Neither the metadata itself nor the location in which it is stored are "language elements."

The foregoing passage also says nothing about wireless devices. For this, the Office turns to *Hu* paragraphs 17 and 21. These passages say little more than that user sessions on wireless devices can be emulated while load testing a server. The Office Action fails to articulate how one of ordinary skill in the art who knew that wireless devices could be emulated while load testing a

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[14] *Nowitz.* col. 4, lines 33-40.

server, and who also knew where to obtain metadata would be led to claim 3's step of "identifying a first set of language elements that are supported by the first category of wireless devices."

SECTION 103 REJECTION OF CLAIM 13

Claim 13 recites the additional limitation that "the navigation history identifies an order in which the first set of content files are retrieved."

In rejecting claim 1, the Office has already stated that "*Nowitz* et al. does not explicitly state the use of generating a log file including navigation history and error information."[15] Yet, in rejecting claim 13, the Office now states that claim 13's limitation on navigation history is disclosed by *Nowitz* col. 9, lines 65-67 and col. 10, lines 1-15.[16]

This appears to be a logical contradiction.

A reference that fails to teach a particular claim limitation cannot possibly be regarded as teaching a further limitation on that same claim limitation. This would appear logically impossible.

Applicant requests reconsideration and withdrawal of the section 103 rejection of claim 13. Alternatively, Applicant requests some rational explanation for how one might reconcile the Office's positions on claims 1 and 13.

SECTION 103 REJECTION OF CLAIM 16

The Office states that claim 16's additional limitation of "receiving input from a user entering user data" is disclosed by the following text:

> "[0040] By recording traces for different types of transactions (user sessions) and for different types of client devices, the method and system of the present invention can emulate a plethora of test scenarios without code modifications. For instance, by recording different server traces, such as traces for refresh, traces for uploading new adjustment form data to the sync server, and traces for downloading new adjustment

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[15] *Office Action*, page 4.
[16] *Office Action*, page 7.

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> form data from sync server onto the thin device, combined synchronization scenarios can be easily simulated."

The foregoing passage says nothing about a user entering user data. The passage merely describes the advantages of recording traces for various user sessions.

In rejecting claim 16, the Office concedes that neither *Hu* nor *Nowitz* teaches "displaying a blank form on a screen of a computing device" into which the user is to enter user data. The Office asserts that the foregoing limitation would have been obvious to one of ordinary skill in the art because "[a]s testing is done in emulation mode…it would be obvious that screen of mobile device will be emulated as the whole device is emulated for testing purposes."

It is unclear how testing of a mobile device in emulation mode has anything to do with the claim limitation of "displaying a blank form." It is also unclear what the "emulation mode" of a mobile device means, what the properties of a mobile device in "emulation mode" might be and how "emulation mode" might differ from a regular mode of the mobile device. In fact, it is not altogether clear whether a mobile device even has this "emulation mode" that the Office refers to.

The two cited references fail to teach the additional limitation of claim 16. The Office has not identified a third reference that teaches the missing claim limitation. Moreover, the Office has not articulated any line of reasoning for why one of ordinary skill in the art would have modified the references to include the additional limitation of claim 16. Accordingly, the section 103 rejection of claim 16 is improper.

SECTION 103 REJECTION OF CLAIM 17

The Office suggests that *Nowitz* discloses having user data include "one or more variable values that are used to create a dynamic URL" in the following paragraph:

> "Typically, when harvesting a network for links to or metadata describing content, a web crawler or spider, crawls (searches) a network in a quasi-random fashion, following each web link it encounters. The spider uses the web link as a seed to search and retrieve information from a located resource (as a media file or data store of media files). This process is repeated with each "seed" or link to a resource. In the

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workflow of the crawling process, the results discovered by the web crawler are eventually parsed and submitted to an extraction agent that further extracts metadata from the results discovered during the course of a web crawl. More information about the specifics of the workflow of a search and retrieval system is described in FIG. 6."

The passage describes how a web crawler traverses a network. It has nothing to do with user data. In particular, this passage cannot possibly disclose having user data that includes "one or more variable values that are used to create a dynamic URL" as required by claim 17.

SUMMARY

Now pending in this application are claims 1-32, of which claims 1, 19, 25, and 29 are independent. No additional fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050, referencing Attorney Docket No. 08575-0103001.

Respectfully submitted,

Date: _September 17, 2008_
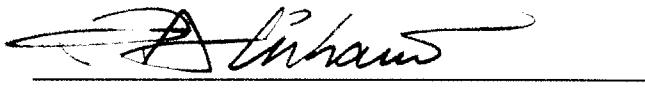
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